

REMARKS

The drawings are objected to because the strikers 50 in Figures 3 and 4 are shown attached to the endgate 34 yet are described as being attached to the pickup truck endgate opening 44. As suggested, reference number 50 is removed from Figure 3 and reference number 50 in Figure 4 is changed to 78A. A replacement sheet is enclosed.

Claims 1-16 are currently pending. Claims 1, 2, 6, 9, 10, 12, and 16 are rejected. Claims 3-5, 7, 8, 11, and 13-15 are objected to but would be allowable if rewritten to include all the limitations of the base and intervening claims.

Claims 1, 2, 6 and 9 are rejected under 35 USC 102(b) as being anticipated by Botteese. Claims 1, 2, 6, and 9 are cancelled herein. Claims 3, 4, and 7 are rewritten herein to include all the limitations of the base and intervening claims.

Claims 10 and 12 are rejected under 35 USC 102(b) as being anticipated by Meinke. Independent claim 10 is amended herein to further include the following limitation as shown underlined below:

“wherein the upper portion is adjacent to the lower portion and extending upward therefrom in the first position to result in a first endgate height, and wherein the upper portion in the second position is pivoted downward to result in a second endgate height less than the first endgate height and less than a height of the endgate opening.”

This clearly distinguishes claim 10 from Meinke. Meinke provides an extender assembly which when the extender is extended full upright to its first position (highest point in Figure 7), it has a first endgate height. The extender is then pivoted 90 degrees downward to its second position (lowest point in Figure 7) to provide a second endgate height, which is still above or taller than the endgate opening. In the present invention, the endgate needs both the lower and upper portions to be upright in order to close the

AMENDMENTS TO THE DRAWINGS

A replacement for sheet 2 of 3 is provided herein removing reference number 50 from Figure 3. In Figure 4, reference number 50 is changed to 78A.

endgate opening. When the upper portion is folded down, the endgate height is less than the height of the endgate opening and thus does not close it off completely.

Claim 12 depends from claim 10 and is believed to be allowable in light of the amended claim 10. Therefore Applicants respectfully request that the rejection of claims 10 and 12 be withdrawn.

Claim 16 is rejected under 35 USC 102(b) as being anticipated by Jeffers et al. Claim 16 is amended herein to include the following underlined limitation:

“an upper portion pivotably connected to the lower portion by said at least one hinge, having a cross vehicle width equal to a cross vehicle width of the lower portion...”

The upper and lower portions of the endgate in the present invention have equal cross vehicle widths as shown in Figures 1 and 2. In contrast, Jeffers et al. illustrates a drop down top center door 11 that has a narrower width than the balance of the endgate and is sized to accommodate a fifth wheel trailer hitch. The present invention advantageously permits improved access to the cargo area across the full width of the endgate, since the full width of the endgate upper portion can be folded down as shown in Figure 7. With this amendment to claim 16, Applicants respectfully request that this rejection be withdrawn.

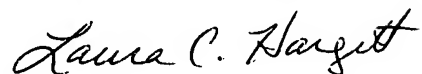
Claims 3-5, 7, 8, 11 and 13-15 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims. Claims 3, 4 and 7 are rewritten herein. Claims 5 and 8 are believed to be dependent upon an allowable claim. Applicants respectfully request that the objection to claims 3-5, 7, and 8 be withdrawn.

Claims 11 and 13-15 are believed to be allowable in light of the amendment to claim 10 to which they all depend. Applicants respectfully request that the objection to claims 11 and 13-15 be withdrawn.

Applicants believe that the application with claims 3-5, 7-8, 10-16 is in condition for allowance and respectfully request such allowance.

Please charge GM deposit account 07-0960 for any fees due.

Respectfully submitted,

A handwritten signature in cursive script that reads "Laura C. Hargitt".

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LCH:vlg